

January 21, 2020

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Re: USTelecom Ex Parte Notice, WC Docket No. 19-126, *Rural Digital Opportunity Fund*; WC Docket No. 10-90, *Connect America Fund*

Dear Ms. Dortch:

On January 16, 2020, Mary Henze and Brendan Haggerty, AT&T; David Bartlett and Randy Clarke, CenturyLink; Mike Skrivan, Consolidated Communications (via phone); AJ Burton and Diana Eisner, Frontier Communications; Alan Buzacott, Verizon; Thomas Whitehead, Windstream Communications; and I met with separately with Preston Wise, Rural Broadband Advisor to Commissioner Pai; Arielle Roth, Wireline Legal Advisor to Commissioner O’Rielly; and Austin Bonner, Legal Advisor for Wireline and Public Safety to Commissioner Starks.¹ The purpose of the meeting was to discuss the draft Rural Digital Opportunity Fund (RDOF) order currently available for public review ahead of the Commission’s January 30, 2020 vote.²

USTelecom noted that the Draft takes a thoughtful approach to solving our rural divide, making a number of key proposals that will serve to connect millions of locations across rural America. In particular, USTelecom applauded the fact that the Draft:

- Includes auction weights prioritizing terrestrial broadband as a springboard for future 5G deployment;
- Provides clarity and certainty to the transition process between CAF Phase II and the RDOF by assuring the seventh year of CAF II support and clarifying that new auction winners bear the responsibility for providing voice services upon receiving funding;
- Recognizes, in line with USTelecom’s own efforts to help establish better broadband maps, that the world has changed since 2011 and provides a means of reducing the risk of inaccurate location counts, thereby reducing uncertainty in the bidding process;
- Adds a new tier (50 Mbps down/5 Mbps up) that will make the auction more competitive and allow consumers to receive higher speeds.

These are important decisions. Yet there is one area of the Draft, the letter of credit (LC) requirements,³ that must be revised in order to ensure a successful auction. Simply put, without

¹ Mr. Bartlett attended the meeting with Mr. Wise and Ms. Bonner but did not attend the meeting with Ms. Roth.

² *Rural Digital Opportunity Fund*, WC Docket Nos. 19-126, 10-90, Report & Order, FCC-CIR20001-01 (Draft).

³ *Id.* at paras. 96-109.

substantial reform, the current LC requirements will prevent USTelecom members (and in our view the entire pool of potential bidders)⁴ from participating meaningfully in the RDOF auction. We discussed the letter filed on January 16, 2020 by USTelecom and six other national associations stating that “[i]f modifications to the LOC requirements are not made, many companies could be effectively barred from participation in the auction and those that do will not be able to bid on the full amount of locations they might otherwise be able to serve because of the difficulties in obtaining and the cost of the required credit.”⁵ This gating factor could put some of USTelecom’s members, who themselves alone are serving 3.6 million locations through the CAF II model program, on the sidelines while the RDOF attempts to serve as many as six million potential unserved locations in Phase I.

To solve this problem, USTelecom outlined the proposal that it detailed in its January 20, 2020, letter to the Commission that is designed to create incentives for faster broadband deployment while simultaneously mitigating the Commission’s risk of non-deployment.⁶ The essence of the proposal is that a participant in the RDOF can reduce its letter of credit obligations proportionately by deploying ahead of currently scheduled milestones. If a participant deploys in the early years of the program, it will have the ability to proportionately reduce its LOC obligation as its total broadband deployment increases.

USTelecom also discussed its views on the section IV of the Draft devoted to Transitions. While USTelecom reiterated its support for the Commission’s clear commitment to the seventh year of funding, it requested for the Commission to revisit the Draft’s decision declining to provide support for continued service in the high-cost areas that are not won in the Phase I auction. USTelecom members will continue to be responsible for voice services in these areas and the network will become more expensive to maintain as other portions of it, along with the customers, presumably transition to the service of the auction winners in those areas.⁷ USTelecom also asked that the Commission revisit the portion of the discussion devoted to discontinuance, noting that USTelecom in its comments never sought to avoid the section 214 discontinuance process. It simply requested that because the RDOF authorization process is so robust, that the FCC determine, or make a rebuttable presumption, that any new ETC winner of RDOF funding meets the standard for being an “adequate replacement” should the old ETC seek 214 discontinuance.⁸

⁴ We note that the Draft cites approximately 20 organizations that asked for the LC requirement to be scaled back and reduced. *See id.* at nn. 272-311. The list of entities that were cited proposing to modify the LC requirement includes: ACA Connects, @Link, Aristotle, CenturyLink, CoBank, Frontier, Geolinks, INCOMPAS, Internet Society, ITTA, Live Oak Bank, Nextlink, NCTA, NTCA, NRECA, Surety and Fidelity Association of America, West Virginia Broadband Enhancement Council, USTelecom, Windstream, WISPA, and WTA.

⁵ Letter from Angie Kronenberg, Chief Advocate and General Counsel, INCOMPAS et. al., to Chairman Ajit Pai and Commissioners O’Rielly, Carr, Rosenworcel, and Starks, WC Docket Nos. 19-126, 10-90 (filed January 16, 2020).

⁶ *See* Letter from Mike Saperstein, Vice President Policy & Advocacy, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-126, 10-90 (filed Jan. 20, 2020, posted Jan. 21, 2020).

⁷ Letter from Mike Saperstein, Vice President Policy & Advocacy, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-126, 10-90 (filed Nov. 29, 2019).

⁸ *See* USTelecom Reply Comments, WC Docket Nos. 19-126, 10-90, 14-16 (filed Oct. 21, 2019).

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USTelecom members stand eager to participate in the RDOF auction. USTelecom is committed to working with Commission staff to propose viable alternatives that will enable USTelecom members and all other bidders to compete at the scale required to tackle the immense challenge of the rural digital divide. We look forward to continuing to work with the Commission to address these important issues.

Please contact me with any questions.

Sincerely,

_____/s/____

Mike Saperstein
Vice President, Policy & Advocacy

cc: Preston Wise
Arielle Roth
Austin Bonner